

SECTIONS 26.00, 28.00, AND 28.50

GUIDELINES

I. INTRODUCTION

It is the State's policy that the enacted budget be as complete as possible. However, the Legislature has provided for adjustments to the Budget through various Sections in the Budget Act. These adjustments must be limited to **critical and unanticipated** needs.

These guidelines provide guidance and instructions on budget adjustments authorized in Sections 26.00, 28.00, and 28.50 and provide answers to the following frequently asked questions:

- Does Section 28.00, in itself, appropriate moneys?
- How do we define program, project and function?
- Do we have to report carryover funds from one fiscal year to the next (Section 28.00)?
- Do we have to report transactions for a year that has already passed?
- What is the relationship between Sections 8.50 and 28.00?
- Do we ever report budget adjustments to the Legislature per the combined authority of Section 28.00 and some other control section?
- If we receive an adverse response from the Legislature, can we proceed with the proposal?
- Do the thresholds for reporting adjustments to programs, projects and functions apply cumulatively or to each transaction?
- Can Section 28.00 be used for purposes for which funding was previously denied by the Legislature?

II. SUMMARY OF SECTIONS 26.00, 28.00, and 28.50

General

The terms program, project, and function are used throughout the Sections and are defined as follows:

- **Program** refers to the highest program level displayed in the Budget Act, not to the element, component or task sub-levels of a program hierarchy.
- **Project** refers to a specific project which may be identified in a Budget Act. (Capital Outlay projects are adjusted through other provisions included in the Government Code, including Public Works Board approvals, and not through the Section 28.00 process.)
- **Function** refers to any scheduled amount in the Budget Act other than a program or project, such as a special item of expense.

Section 26.00 – Intra-schedule Transfers

Section 26.00 authorizes the transfer of funds from one line to another within the schedule of an appropriation. The amount of the transfers are limited in provisions (c) 1-4. The following also applies to Section 26.00 adjustments:

- intra-schedule transfers for capital outlay purposes are prohibited, regardless of whether budgeted in a capital outlay or local assistance appropriation
- intra-schedule transfers are allowed for support and local assistance type purposes
- transfers may not establish or eliminate a program, project, or function
- any transfer in excess of \$200,000 requires advance reporting to the Legislature

Budget Revisions will not be processed by Finance to effect the transfers until reporting requirements have been satisfied. And, although transfers equal to or less than \$200,000 are not individually reported to the Legislature, Finance is required to report all budget adjustments authorized pursuant to Section 26.00 annually at the end of the fiscal year to the Legislature.

Section 28.00 – Augmentation for receipt of non-state funds

Section 28.00 authorizes Finance to approve augmentations for the expenditure of **unanticipated** funds received from the federal or local governments or any other non-state entity. For purposes of this Section, **unanticipated** means those instances when receipt of the funds could not reasonably have been foreseen at the time of the development of the Governor's Budget or the submission of Spring Finance Letters for inclusion in the budget for the ensuing fiscal year. Finance may also reduce any program, project, or function if funds will not be received as anticipated.

There has often been a misconception that Section 28.00 provides an appropriation authorization for the Director of Finance to augment budgets. Section 28.00, in itself, does not provide an appropriation. Augmentations approved pursuant to Section 28.00 involve adjustments of moneys which already have been appropriated. Thus, most Section 28.00 augmentations involve additional federal funds appropriated by Section 8.50 of the Budget Act or reimbursements to be received from non-state sources.

Regardless of the source of the additional funding, any augmentation that exceeds either \$200,000 or 10 percent of the amount available for expenditure in the affected program, project, or function must be reported to the Legislature. Budget Revisions will not be processed by Finance until after reporting requirements have been satisfied. Reporting requirements do not apply to federal funds related to caseload increases in Medi-Cal, CalWORKs, and Supplemental Security Income/State Supplementary Program.

Section 28.00 augmentations must also meet the following criteria:

- the expenditure must be for a purpose consistent with State law
- funds are available to the State under conditions permitting their use only for a specified purpose
- acceptance of the funds must not impose any requirement to commit or expend new state funds
- there is a need to expend the additional funds during the current fiscal year

Section 28.50 – Augmentation for the receipt of state funds

Section 28.50 authorizes Finance to approve a state agency's expenditure of additional reimbursements received from another state agency. Finance may also reduce any reimbursement amount and the related expenditure authority if anticipated reimbursements will not be received.

Finance approval of the expenditure of such reimbursements that exceeds \$200,000 must be reported to the Legislature and Budget Revisions will not

be processed until reporting requirements have been satisfied.

However, the funding for the agency providing the reimbursements has been approved by the Legislature or reported to the Legislature in accordance with other Section requirements, the Finance approval of the receipt and expenditure of the reimbursements will be considered a technical budget adjustment. Reporting will not be required pursuant to Section 28.50.

However, as specified in the General Reporting guidelines below, any **new activity** or **program** that will be funded by additional reimbursements should be reported. The use of Section 1.50 to make technical adjustments **will not** be used in these instances.

III. GUIDELINES FOR REPORTING TRANSACTIONS

General

Certain adjustments are subject to a notification process whereby the Director of Finance is to report the proposal (both augmentations and reductions) to the Legislature. This reporting provides the Legislature a 30-day period to review and respond to a proposed budget adjustment. Finance may request a waiver of the 30-day notification period. If the Legislature does not respond within 30 days or grants a waiver of the 30-day notice, Finance then notifies the requesting departments to proceed with the proposal. An approved Budget Revision is then sent to the State Controller's Office and the department to adjust the budget authorizations.

If the Legislature responds adversely, Finance can still legally proceed with the proposal as the authority under the Sections to adjust budgets is absolute. However, the more likely course of action would be to either drop the proposal or to make an appeal through a follow-up notification letter.

Adjustments for Prior Years

Generally, appropriations are not reverted until two years after the expiration of the period of availability for encumbrance. They remain on the books of the State Controller and departmental accounting offices until reverted. Thus, adjustments which need to be made to appropriations during the liquidation period are subject to the Sections, including Section 28.00. Therefore, any reportable transactions must be reported throughout the life of the appropriation.

Sensitive Issues

The guidelines cannot address the sensitivity involved with a particular

issue. The general policy is that adjustments involving sensitive issues, policy matters, or program areas where the Legislature has shown special interest or concerns generally should be reported.

Each sensitive proposal must be reviewed and evaluated on a case-by-case basis. For example, budget adjustments which result in an increase or reduction in the level of service or result in a new program should be reported. The sensitivity of the issue and the level of legislative interest in the program area must be considered.

If a question remains as to whether a Section letter should be sent, departmental budget staff should discuss the issue with their Finance budget analyst. Similarly, Finance staff should discuss questions with the APBM/PBM and possibly the Capitol Office. In some cases, it may be appropriate for Finance staff to discuss the issue with staff of the Legislative Analyst's Office.

Cumulative

The reporting thresholds in **Sections 28.00 and 28.50** are applicable to individual transactions and **are not** to be applied to the **cumulative** effective of separate transactions. However, departments are not to split transactions to avoid reporting of budget adjustments. Each issue must be addressed in its entirety.

The reporting threshold in **Section 26.00 is cumulative** and must be applied to all intra-schedule transfers effecting the line of the schedule.

Reporting for More Than One Authority

Budget Act Item provisions and sections provide a number of legislative authorizations to adjust budgets which also require notification to the Legislature. For example, Item 9840 provides for deficiency funding, Section 26.00 allows for intra-item transfers, and Section 27.00 provides for authorization to spend at a rate that will require a future deficiency augmentation. For some issues, it may be appropriate to send a combination notification to the Legislature for two or more of these authorities, including Section 28.00.

Section 28.00 Reporting

Historically, Section 28.00 has included provisions which have been very explicit on transactions which should be reported to the Legislature as well as provisions which have required some judgment on the need for reporting.

Proposals Requiring Notification:

Section 28/28.5

- Augmentations or reductions that are in excess of either \$200,000 or 10 percent of the amount available in the affected program, project or function. This is applicable for any appropriation which has not reverted.
- Carryover funds (from a previous fiscal year) resulting from appropriations or allocations not previously reported to the Legislature as being carried over.
- The general policy is that Section 28.00 will **not** be used to request an augmentation for an expenditure which was previously considered by the Legislature and denied. However, there may be some instances where conditions have changed and the Administration may want reconsideration by the Legislature. In this case, notification is always appropriate.

Proposals Not Requiring Notification:

- Changes pursuant to specific authority in individual items as the specific authority supersedes the broader authority of Section 28.00.
- Carryover funds (from a previous fiscal year) resulting from appropriations or allocations previously reported to the Legislature as being carried over and to be used for the same purpose.
- Federal funds related to caseload increases in Medi-Cal, CalWORKs, and SSI/SSP.

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